THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.25621 of 2006

Dated: 15-12-2006

Between:

Jaggaiahpet Jamiya Majid Tenants Welfare Association,
rep. by its vice president, Krishna District.

..... PETITIONER

AND

The Government of Andhra Pradesh, rep. by its Principal Secretary,
Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.25621 of 2006

ORDER:

The petitioner-association statedly represents twenty-eight of its members. Respondent No.3 so as to construct a new shopping complex in the property belonging to Jamiya Masjid (wakf), evicted the members of the petitioner-association from the old shops on the premise of allotting new shops. It was not done after completion of construction of forty shops. Therefore, the petitioner-association filed W.P.No.24639 of 2006. This Court, after referring to a decision of a Division Bench in **Radhakrishna Rice Mill Company v. Jumma Maseedh by its Muthavalli**[1], disposed of W.P.No.24639 of 2006 on 27.11.2006 in the following terms.

> In plain terms, Section 56(3) of the Act[2] requires Wakf Board to review the terms and conditions on which the lease is to be renewed in case it is decided to do so. This Court however hastens to add that Section 56(3) of the Act does not confer any right to seek renewal, which can be enforced in a writ petition. As seen from the record, the second respondent issued a notice on 05.10.2006 inviting applications for allotment of shops for different business purposes. Nothing prevents the members of the petitioner association to make application complying with the conditions. Further, any lease granted by the second respondent would be void unless it is made with the previous sanction of the Wakf Board and, therefore, the members of the petitioner association can always approach the first respondent for redressal.

The petitioner-association again approached this Court by filing instant writ petition alleging that respondent No.3 is not adopting the method of conducting auction while leasing out the forty shops. The matter was heard initially by this Court on 08.12.2006 and at the request of the learned standing counsel for Andhra Pradesh State Wakf Board, the same was adjourned. Today the learned standing counsel has placed before this Court a copy of the office order bearing No.9/Kst/RF/2005 dated 08.12.2006 passed by respondent No.2. The same is made part of the record. It reads as under.

> In the reference 1st cited above the Board has sanctioned and released Rs.26.32 lakhs (Rupees twenty six lakhs thirty two thousand only) for construction of shopping complex attached to Jamia Mosque at Jaggaiahpet, Krishna

District as Revolving fund loan in favour of President BCC of the shopping complex.

In the ref.2nd cited above, the President, B.C.C., has informed that the construction of shopping complex has been completed and requested to depute any officer of the Board to conduct open auction of constructed shops to avoid loss of rent in the interest of Wakf, so that the B.C.C. has to pay the monthly installments as per the agreement executed.

The matter was placed before the Special Officer, who after examining the matter, pleased to order to depute Sri Habibuddin Ansari, Executive Officer, Wakf Board, to conduct open auction as per Wakf Act and guidelines issued in the G.O. 3rd cited. He is, therefore, directed to proceed to the subject institution and conduct open auction in the presence of the President, B.C.C. and Inspector Auditor Wakfs, Krishna Dis. and report compliance immediately to avoid loss to the Wakf institution.

In view of the above, it goes without saying that respondent No.3 has to necessarily conduct auction for leasing out the shops in the new shopping complex attached to Jamia Mosque at Jaggaiahpet in accordance with the guidelines issued by the Government of Andhra Pradesh under G.O.Rt.No.21, Minority Welfare Department, dated 19.01.2001. The petitioner-association is given liberty to approach respondent No.3 with a copy of this order.

The writ petition is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

15th December, 2006
ghn

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[1] 2002(6) ALD 52 (DB)

[2] of the Wakf Act, 1995